

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:	CASE NO. 10-02693-SEK
ALFREDO RODRIGUEZ DIAZ AND MIRIAM TIRADO SOTOMAYOR Debtor(s)	CHAPTER 13
FIRSTBANK PUERTO RICO Movant(s)	INDEX
ALFREDO RODRIGUEZ DIAZ AND MIRIAM TIRADO SOTOMAYOR Respondent(s)	

MOTION FOR RELIEF OF AUTOMATIC STAY

TO THE HONORABLE COURT:

Comes now, secured creditor Firstbank Puerto Rico ("Firstbank"), through its undersigned counsel and very respectfully states and prays:

1. On April 1, 2010, Debtors filed their Voluntary Petition seeking relief under Chapter 13 of the Bankruptcy Code.
2. On May 13, 2010, Firstbank filed its secured claim against Debtors in the amount of \$330,794.34, including arrears in the amount of \$27,735.94. (Claim Number 6.)
3. Firstbank's claim is secured with a mortgage over Debtors' real property, as it appears in **Exhibit "A"** hereto. **(Movant also adopts by reference as if literally transcribed the supporting documents to Claim Number 6.)**
4. Debtors have failed to maintain their mortgage payments to Firstbank, and as of August 4, 2010, Debtors had 4 post petition payments of \$2,066.04 each in arrears, plus \$499.47 in accrued post-petition late charges, and other expenses in the amount of \$225.00, for a total of \$8,951.13. (See **Exhibit "B"** hereto.)

5. Section 362(d)(1) of the Bankruptcy Code (11 U.S.C. §362(d)(1)) reads as follows:

“(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay --

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;”

6. Debtors' failure to make timely post-petition mortgage payments to Firstbank, constitutes cause for granting Relief from the Automatic Stay under Section 362(d)(1) of the Bankruptcy Code.

7. Firstbank submits that Debtors are not entitled to the protections of the Servicemembers Civil Relief Act of 2003. (See **Exhibit "C"** hereto.)

WHEREFORE, it is respectfully prayed that Firstbank be granted Relief from the Automatic Stay pursuant to 11 U.S.C. 362(d)(1) as to the Debtors, and to the estate, and be authorized to foreclose upon its collateral, and that Firstbank be granted attorney's fees in the amount of \$325.00, with such other and further relief as this Court deems just and proper.

Ponce, Puerto Rico, this 17th day of August, 2010.

s/ Carlos G. Batista Jiménez
Carlos G. Batista-Jiménez
USDC-PR 206711
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Estudio de Título

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EXHIBIT A

CASO: ALFREDO RODRIGUEZ DIAZ

FINCA: 7713

FOLIO: 206- - INS. 5TA. Y ÚLTIMA

TOMO: 161 DE RINCON

REF.: FRAU & ASOCIADOS

DORAL BANK/NADIA

REGISTRO: AGUADILLA

DESCRIPCIÓN:

RÚSTICA: Solar "A", solar radicado en el Barrio Calvache del término municipal de Rincón, Puerto Rico, con una cabida superficial de 1975.492 METROS CUADRADOS. En lindes por el NORTE, en una distancia de 60.929 metros, con remanente; por el SUR, en distancia de 85.121 metros, con camino municipal; por el ESTE, en una distancia de 36.404 metros con remanente; y por el OESTE, en una distancia de 56.437 metros, con uso público.

ADQUISICIÓN:

Consta inscrita a favor de **ALFREDO RODRIGUEZ DIAZ** y su esposa **MIRIAM TIRADO SOTOMAYOR**, mayores de edad, propietarios y vecinos de Toa Alta, Puerto Rico, quienes adquirieron por título de compra a José Antonio Ruiz Soto y su esposa Hortensia Feliciano De Jesús, por precio de \$40,000.00, mediante la escritura #40, otorgada en Rincón, Puerto Rico, el día 18 de febrero de 2003, ante el Notario Público Domingo F. Acevedo Bayron, e inscrita al folio 66 del tomo 157 de Rincón; inscripción 1ra.

CARGAS:

POR SU PROCEDENCIA: LIBRE.

POR SÍ: *HIPOTECA* constituida mediante la escritura #3, otorgada en Aguada, Puerto Rico, el día 23 de enero de 2007, ante el Notario Público Santiago Mari Roca, en garantía de un pagaré suscrito bajo affidavit #5134, a favor de *FIRSTBANK PUERTO RICO*, o a su orden, por la suma principal de \$310,700.00 y créditos adicionales, devengará intereses al 6.625 por ciento anual, y vence el día 1ro de febrero de 2037, tasándose la finca en *cantidad equivalente al principal*, e inscrita al folio 66 del tomo 157 de Rincón; inscripción 4ta. ~ **Sujeta a la Cláusula de Aceleración ~**

2) *HIPOTECA* constituida mediante la escritura #179, otorgada en Vega Baja, Puerto Rico, el día 29 de agosto de 2007, ante el Notario Público Francisco Arrivi Silva, en garantía de un pagaré suscrito a favor de *POPULAR MORTGAGE, INC.*, o a su orden, por la suma principal de \$90,000.00 y créditos adicionales, devengará intereses al 7.25 por ciento anual, y vence el día 1ro de septiembre de 2027, tasándose la finca en \$90,000.00, e inscrita al folio 206 del tomo 161 de Rincón; inscripción 5ta y última.

~ **Sujeta a la Cláusula de Aceleración ~**

EMBARGOS ESTATALES: Ninguno.

EMBARGOS ESTATALES ANOTADO BAJO LA LEY #12: Ninguno.

GRAVÁMENES FEDERALES: Ninguno.

SENTENCIAS: Ninguna.

DOCUMENTOS PENDIENTES DE DESPACHO: Ninguno, hasta el asiento 985 del diario 841, siendo las ocho de la mañana del **día 21 de abril de 2010.**

~ **Bitácora buscada bajo el sistema mecanizado ~**

Nota: Esta sección del Registro tiene establecido un sistema computarizado. Nuestra oficina no se hace responsable por errores u omisiones que cometa el empleado del Registro en la entrada y búsqueda de datos en dicho sistema y en la Bitácora.



Ana M. Echevarría De Jesús
Ana M. Echevarría De Jesús
Investigadora De Títulos



REQUEST FOR DISMISSAL

ATTORNEY Frau & AsociadosLoan Number 238225Debtor Alfredo Rodriguez DiazCo-Debtor Myriam Tirado SotomayorBKR # 10-02693 CHPT 13 DATE FILED 4/1/2010Payments due 16 Pre-pet 12 Post-pet 4Due Date Principal Balance

Post- Petition arrears:

4 Months at \$ 2,066.04 \$ 8,264.16Months at \$ -Late Charges at \$ 499.47Legal Fees \$ -Foreclosure Fees \$ 150.00Inspections \$ 37.50Bad Check Fee \$ -Other Charges \$ -TOTAL \$ 8,951.13

All reinstatement payments must be made up to the current month, including legal fees & late charges

Verified Declaration

I, the undersigned, declare under penalty of perjury that the amounts claimed by Movant in the foregoing Request for Dismissal, represents accurately the information kept in accounting books and records kept by Movant in the ordinary course of business. I further declare under penalty that I have read the foregoing Motion from the Automatic Stay and that the facts alleged are true and correct to the best of my knowledge.

Name BANKRUPTCY OFFICERThis Request for Dismissal was prepared This 4 day of August of 2010



Todo está en uno

***UNSWORN STATEMENT
UNDER PENALTY OF PERJURY***

The undersigned hereby certifies the following under penalty of perjury:

Debtor (s) Alfredo Rodríguez Díaz / Myriam Tirado Sotomayor

- Loan Number: 238225
- Principal balance: \$ 303,058.40
- Monthly late charges: \$ 99.47
- Pre-petition arrears and other charges: \$ 27,735.94
- Post-petition arrears: \$ 8,951.13
- Other charges: \$.
- Last post-petition installment was received on 00/00/00 applied to 00/00/00
- x No post-petition payments have been made.
- Present value interest compounded at 6.62500%, per annum.

This 4 day of August of 2010.

A handwritten signature in black ink, appearing to read 'Arlinda Rivera', written over a horizontal line.

Name: Arlinda Rivera
Title: Bankruptcy Officer

IN RE: 238225

CASE NO

Alfredo Rodríguez Díaz
Myriam Tirado Sotomayor

Q# 10-02693

Debtor(s)

CHAPTER: 13

VERIFIED STATEMENT

I, Arlinda Rivera of legal age Single resident of
San Juan, Puerto Rico, state under penalty of perjury as follows;

That as to this date August 4, 2010 by search and review of the records
kept by FirstBank in the regular course of business in regard to debtor
account with this bank there is no information that will lead the undersign to belief that
debtor is a service member either on active duty or under a call to active duty, in the
National Guard or as a commission officer of the Public Health Services or the National
Oceanic and Atmospheric Administration (NOAA) in active duty.

The bank has not received any written notice from debtor that his military status has change.

That as part of my search I examined the following documents or records available to me.

In testimony, wherefore I sign this document under penalty of perjury in San Juan, Puerto Rico on August 4 2010.



Bankruptcy Clerk



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
RODRIGUEZ	ALFREDO	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:AANVN5455T



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
TIRADO	MYRIAM	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
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Report ID:PCBDH02D1U